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**FISCAL IMPACT STATEMENT**

**LS 6832**

**BILL NUMBER:** SB 243

**NOTE PREPARED:** Jan 2, 2004

**BILL AMENDED:**

**SUBJECT:** Electronic Gaming in Taverns.

**FIRST AUTHOR:** Sen. Waterman

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** The bill authorizes electronic gaming devices in establishments licensed to sell alcoholic beverages to customers for consumption on the premises. The bill imposes an annual establishment license fee of \$1,000 per electronic gaming device. The bill also creates a license for suppliers of electronic gaming devices and requires suppliers to pay a \$2,500 annual fee. The bill requires the fees to be deposited in the Electronic Gaming Fund. It provides that after administrative expenses are paid, the money in the Fund must be distributed as follows: 20% to the counties; 20% to the cities and towns; and 60% to the Property Tax Replacement Fund.

**Effective Date:** July 1, 2004.

**Explanation of State Expenditures:** Under the bill, the State Lottery Commission is given the power and duty to administer, regulate, and enforce distribution and operation of electronic gaming devices (EGDs) in alcoholic beverage retail establishments. The bill also requires the State Police to assist the Commission in conducting background investigations of licenses. Under the bill, all administrative costs would be defrayed by license application fees, license fees, and penalties. The bill requires the Commission to reimburse the State Police for all costs relating to background investigations.

The bill creates two licenses. The Establishment License permits an alcoholic beverage retail establishment, except for a horse racetrack or OTB, to operate up to five EGDs. The bill also prohibits a holder of an Establishment License from owning more than 20 EGDs. The Supplier's License permits a person to own more than 20 EGDs and to distribute, sell, or lease EGDs to a person holding an Establishment License. The bill prohibits the holder of a Supplier's License from owning, managing, or controlling an establishment with an Establishment License. The Commission is required to conduct background investigations of each

license applicant. The State Police Department is required to assist the Commission in conducting background investigations. The bill requires the investigative costs to be paid by license applicants, and requires the Commission to reimburse the State Police for its investigative costs.

The bill also establishes the Electronic Gaming Fund and requires receipts from Establishment and Supplier's License fees and penalties to be deposited in the Fund. Money in the fund does not revert to the state General Fund. The bill provides that money in the Fund is annually appropriated to the Commission to cover the cost of administering electronic gaming.

*Penalty Provisions:* The bill establishes a Class A misdemeanor for: (1) making false statements on an application for a license; (2) operating electronic gaming in a manner other than required by law; (3) permitting gambling by persons under 21; (4) aiding or inducing a person under 21 to enter a gambling area; and (5) accepting wagers at unlicensed establishments. The bill also establishes a Class D felony for: (1) transactions to influence the outcome of gambling games or to influence a Lottery Commission member; (2) cheating at a gambling game; (3) manufacturing or distributing materials or devices that violate the electronic gaming law; and (4) various acts to cheat at, alter the results of, or fraudulently win at electronic gaming.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$26,825 in FY 2002. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

**Explanation of State Revenues:** *License Fees:* This bill creates an Establishment License that allows qualified establishments to operate EGDs on their premises. Table A illustrates the type and estimated number of qualified establishments, the maximum number of devices allowed at each type of establishment, and the maximum number of devices per type of establishment.

<b>Table A: Maximum Number of Electronic Gaming Devices.</b>			
<b>Qualified Establishments</b>	<b>Number of Establishments</b>	<b>Number of Devices Permitted</b>	<b>Maximum Number of Devices Per Establishment Type</b>
Retail Permit Holders*	6,006	5	30,030
Club Permit Holders**	1,105	5	5,525
<b>TOTAL</b>	<b>7,111</b>		<b>35,555</b>
*Retail permit holders include beer retailers, wine retailers, liquor retailers, restaurants, and hotels. Civic Centers and Riverboat Casinos are excluded from the totals in this table. **Club permit holders include social and fraternal clubs.			

The bill allows the State Lottery Commission to determine the fee for the Establishment License. The maximum fee for this license is \$1,000 per device each year. It is not known how many permit holders would apply for an Establishment License. However, it is important to note that the Lottery Commission estimated in a 1993 study that there were between 10,000 and 15,000 video lottery machines being used illegally in the state. Assuming the license fee is set at \$1,000 and all of the qualified establishments presented in Table A

license at least one gaming device, license revenue would equal approximately \$7.1 M annually. If half of the qualified establishments license five gaming devices, license revenue would equal approximately \$17.8 M per year. If all of the qualified establishments license the maximum number of devices authorized in this bill, permit revenue would equal approximately \$35.6 M per year.

This bill also creates the Supplier's License, which is required for a person to own more than 20 EGDs or to distribute, sell, or lease EGDs to holders of Establishment Licenses. The maximum fee for a Supplier's License is \$2,500. There could potentially be a pool of as many as 180 individuals in Indiana that could apply for a Supplier's License under the bill. If 180 Supplier's Licenses are issued, revenue from the license fee would total \$450,000 annually.

*Electronic Gaming Fund:* The bill establishes the Electronic Gaming Fund consisting of revenue from the Establishment and Operator License fees and penalties. Table B illustrates how money in the Fund would be distributed at the end of the state fiscal year after administrative expenses are paid (these expenses are currently indeterminable). The amount to the Property Tax Replacement Fund is to be used to increase the Property Tax Replacement Credit (PTRC). Under current statute, the state pays Property Tax Replacement Credits (PTRC) to each local taxing unit equal to 20% of the local unit's operating tax levies attributable to real property and nonbusiness personal property. Also, under current statute, the state pays for additional PTRC equal to 60% of the school general fund gross levy. In CY 2005, total PTRC is expected to cost \$1.9 B. The cost of each 1% of the 60% school general fund PTRC is estimated at \$18.4 M and each 1% of the regular 20% PTRC is estimated at \$42.4 M for a total cost for each 1% of \$60.8 M. Additional money used for PTRC would increase the percentage of the credit by an indeterminable level above the current 60% and 20% levels.

Homestead Credits are paid by the state in the amount of 20% of the net property tax (after PTRC) due on operating levies attributable to owner-occupied residences. If the PTRC rate is increased, then the state's expense for homestead credit will be reduced by 20% of the additional PTRC that is attributable to homestead property.

<b>Table B: Distribution of Revenue from the Electronic Gaming Fund (after administrative expenses).</b>	
<b>RECIPIENT</b>	<b>AMOUNT</b>
Counties (based on population)	20%
Cities and towns (based on population)	20%
Property Tax Replacement Fund	60%

*Other Revenue:* This bill may increase the number of EGDs sold, increasing Sales Tax revenue. Sales Tax revenue is deposited in the state General Fund, the Property Tax Replacement Fund, and three other dedicated funds. In addition, an increase in the sale of EGDs will increase income tax revenue from any manufacturers and distributors located in Indiana. The use of EGDs by licensees could also increase their income, resulting in increased income tax revenue. Revenue from the Adjusted Gross Income (AGI) Tax is deposited in the state General Fund and the Property Tax Replacement Fund.

If allowing operation of EGDs in alcoholic beverage retail establishments increases sales, revenue from the Alcoholic Beverage Excise Tax may increase. Alcoholic Beverage Excise Tax revenue is deposited in the

state General Fund, the Post War Construction Fund, the Alcohol and Tobacco Commission's Enforcement and Administration Fund, the Pension Relief Fund, the Addiction Services Fund, and the Wine Grape Market Development Fund.

*Penalty Provisions:* The bill establishes a Class A misdemeanor and a Class D felony for various acts. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000, and the maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

**Explanation of Local Expenditures:** *Penalty Provisions:* The bill establishes a Class A misdemeanor and a Class D felony for various acts. A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44. If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

**Explanation of Local Revenues:** *Local Distribution of License Fees:* The bill requires distributions from the state Electronic Gaming Fund to cities, towns, and counties based on population (see above under *Explanation of State Revenues*).

*Penalty Provisions:* The bill establishes a Class A misdemeanor and a Class D felony for various acts. If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

**State Agencies Affected:** State Lottery Commission, State Police, Treasurer of State, Department of Correction.

**Local Agencies Affected:** Cities, towns, and counties. Trial courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs' Association; Department of Correction; Don Oaky, Excise Industry Liaison, Alcoholic and Tobacco Commission, (317) 232-2463; Lottery Commission Report on Video Lottery, 1993; Local Government Database.

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